



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1983-0002; FRL-9901-75-Region 2]

National Oil and Hazardous Substances Pollution Contingency Plan;

National Priorities List: Deletion of the Hooker (Hyde Park) Superfund Site

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 2 announces the deletion of the Hooker (Hyde Park) Superfund Site (Site) located in Niagara Falls, New York, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of New York, through the Department of Environmental Conservation, have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This action is effective [Insert date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-HQ-SFUND-1983-0002. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, i.e., confidential business information or other information whose

disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories.

Locations, contacts, phone numbers, and viewing hours are:

U.S. Environmental Protection Agency, Region 2

Superfund Records Center

290 Broadway, 18th Floor

New York, NY 10007-1866

*Telephone:* (212) 637-4308

*Hours:* Monday to Friday from 9:00 a.m. to 5:00 p.m.

US EPA Western New York Public Information Office

86 Exchange Place

Buffalo, NY 14204-2026

*Telephone:* (716) 551-4410

*Hours:* Monday to Friday from 8:30 a.m. to 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Gloria M. Sosa, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20<sup>th</sup> Floor, New York, NY 10007-1866, telephone: (212) 637-4283, email: [sosa.gloria@epa.gov](mailto:sosa.gloria@epa.gov).

**SUPPLEMENTARY INFORMATION:**

The Site to be deleted from the NPL is the Hooker (Hyde Park) Superfund Site, located in Niagara Falls, New York. A Notice of Intent to Delete for this Site was published in the *Federal Register* on August 20, 2012 (77 FR 50038-50044).

The closing date for comments on the Notice of Intent to Delete was September 19, 2012. During the comment period, EPA received correspondence offering critical comments. The comments reflected concern that the Site is a continuing source of contaminants to the Niagara River and the deletion of the Site was premature. As a result of the critical comments, EPA published a Notice of Withdrawal of Direct Final Deletion of the Site in the *Federal Register* on September 27, 2012 (77 FR 59338), withdrawing the direct final deletion for the Site and announcing it would evaluate and respond to the significant comments and, if appropriate, proceed with the traditional two-step deletion process.

After careful consideration of the comments received, EPA concluded that the deletion of the Site is still appropriate. Following various lines of evidence, EPA has concluded that the performance objectives of the remedy selected for the Site in 1984 continue to be met and that the remedy selected for the Site is protective of human health and the environment. All response activities selected in the remedy have been implemented, and operation and maintenance activities are ongoing. EPA has the authority to respond appropriately if a problem or situation arises at a site after it is deleted. EPA will continue to provide oversight, review monitoring reports, and routinely communicate with the responsible party performing work at the Site. Operation and maintenance of the remedy will continue at the Site and monitoring will continue to be performed to confirm the effectiveness of response actions performed at the Site, including the maintenance of hydraulic capture.

A responsiveness summary was prepared which addresses all comments received on the deletion and provides rationale that the deletion is considered appropriate. The

responsiveness summary and all comments on the deletion action may be viewed in both the docket, EPA-HQ-SFUND-1983-0002, on [www.regulations.gov](http://www.regulations.gov), and in the local repositories listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 26, 2013.

Judith A. Enck

Regional Administrator

EPA, Region 2

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

#### **PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN**

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

2. Table 1 of Appendix B to part 300 is amended by removing the entry under “NY” for Hooker (Hyde Park), Niagara Falls.

[FR Doc. 2013-24689 Filed 10/22/2013 at 8:45 am; Publication Date: 10/23/2013]